

ARIZONA REVISED STATUTES

Title 41 - State Government

Chapter 1, Article 1.3 Establishment of Parkways and Historical and Scenic Roadways

41-512. Definitions

In this article, unless the context otherwise requires:

1. "Director" means the director of the department of transportation.
2. "Historic road" means a highway, street, road or route that is of historical or cultural importance in the settlement and development of Arizona and is established or designated as a historic road by the transportation board.
3. "Historical society" means the Arizona historical society.
4. "Parks board" means the Arizona state parks board.
5. "Parkway" means an area along either or both sides of a highway, street, road or route acquired in fee or by easement by the governmental body having jurisdiction over the highway, street, road or route for the protection of geographic, natural flora or scenic values, and established or designated as a parkway by the transportation board.
6. "Scenic road" means a highway, street, road or route through a scenic area that is established or designated as a scenic road by the transportation board.
7. "Transportation board" means the transportation board of the department of transportation.

41-513. Cooperation with other agencies

The department of transportation may cooperate and enter into agreements with other federal, state, county or private agencies in carrying out the purposes of this article.

41-514. Administration; advisory committee; composition; duties; designation of parkways and historic and scenic roads

A. There is established an advisory committee to the director consisting of eleven members. The directors of the parks board, the department of transportation, the office of tourism and the historical society shall each appoint to the advisory committee one employee from their respective agencies who serves at the pleasure of the appointing authority. The tourism advisory council shall appoint

one of its members to the advisory committee who shall serve at the pleasure of the council. The governor shall appoint, for a term of three years to begin and end on June 30 or until the successor is appointed and qualified, the remaining six members from the public, with no more than two public members from any one county. The governor may appoint a public member to an additional term.

B. The advisory committee shall:

1. Review requests to establish or designate a highway or area as a parkway or historic or scenic road.
2. Prepare recommendations to the transportation board as to those highways or areas appropriate for establishment or designation as parkways or historic or scenic roads.
3. Review established or designated parkways or historic or scenic roads and recommend to the transportation board their continuation or deletion as parkways or historic or scenic roads.

C. Any agency, group or individual may submit requests for consideration by the advisory committee for the establishment or designation of a highway or area as a parkway or historic or scenic road.

D. Upon recommendation from the advisory committee, the transportation board may designate or establish a parkway or historic or scenic road or delete a previous designation or establishment.

E. If the parkway or historic or scenic road to be established or designated is not a state highway or route, the establishment or designation is not effective unless the board or body exercising jurisdiction over such road agrees to such establishment or designation.

F. Access roads intersecting parkways shall be spaced no closer than one mile apart, except where a county, state or federal highway or city street intersects the parkway. No public agency may approve a subdivision bordering a parkway unless either:

1. The subdivision plat provides internal access to the one mile access roads across the parkway and would accommodate access to such access roads from unsubdivided adjoining lands.
2. The subdivision plat provides access to the general systems of public roads and streets by some means other than through or across the property devoted to parkway purposes.

G. Access roads across parkways which are legally established shall not be closed unless the owner of the land serviced by such access road has agreed to such closure.

41-515. Acquisition of land for parkways and scenic and historic roads; acquisition of scenic easement

A. The director may acquire title to or easements over lands within parkways for the purpose of protecting and administering those areas for the enjoyment of the citizens of the state.

B. The state may acquire any land or scenic easement for the establishment or improvement of a state highway designated as a parkway or historic or scenic road by expenditures of state highway user revenues or other funding sources. Local authorities may acquire any land for the establishment or improvement of county highways or roads or city streets designated as parkways or historic or scenic roads within that jurisdiction by expenditures of local highway user revenues or other funding sources. Maintenance of the right-of-way of a parkway or a historic or scenic road is the responsibility of the governmental body that has jurisdiction over such highway.

C. The interest in land acquired under this article may be a fee simple or lesser estate. The acquisition may be by gift, agreement, purchase, lease, exchange or other legal means, but shall not be accomplished by exercising the power of eminent domain.

41-516. Exemption from standards for parkways and historic and scenic roads

To ensure the protection and enhancement of the special features for historic roads, parkways and scenic roads, the department of transportation, the federal highway administration, the county or the city may allow an exemption from the standards normally applied to the construction and maintenance of the roads and parkways. Revised construction and maintenance procedures for such designated roads and parkways may be developed to reasonably provide for the safety and service of the traveling public.

41-517. Limitation

Notwithstanding any act of Congress or any federal rule or regulation to the contrary, nothing contained in this article and no official action taken pursuant to this article by any federal, state or local official nor any federal, state, county or municipal agency shall be deemed the establishment of a public park, recreation area, wildlife or waterfowl refuge or any historic site of national, state or local significance.

41-518. Rules and regulations

The director shall adopt rules, regulations and guidelines to implement the purposes of this article.

Administrative Rules for Designating and Operating Parkways Historic and Scenic Roads

Article 8. Arizona Parkways and Historic and Scenic Roads

R17-3-801. General Provisions

Arizona Administrative Code Title 17, Ch. 3 Department of Transportation –
Highways September 30, 2005 Page 29 Supp. 05-3

The following definitions apply:

“Corridor Management Plan (CMP)” means a written document developed with public involvement that specifies the actions, procedures, controls, operational practices, and administrative responsibilities and strategies to manage and protect the resources of a designated road. “Department” means the Arizona Department of Transportation.

“Designate” means to grant status as a parkway, historic road, or scenic road to certain physical boundaries of a road or area under A.R.S. §§ 41-512 through 41-518.

“Interstate highway” has the meaning in A.R.S. § 28-7901(4).

“PHSRAC” means the Arizona Parkways, and Historic and Scenic Roads Advisory Committee.

“Road” means any federal, state, county, Indian, or municipality roadway or right-of-way.

“Request” means a written statement submitted to PHSRAC by an agency, group, or individual to ask PHSRAC to consider an initial assessment to recommend certain road segments for a designated road.

“Resources” means the cultural, natural, scenic, or historic qualities of a requested parkway or historic or scenic road.

“State highway” has the meaning in A.R.S. § 28-101(47).

“Viewshed” means the three visual areas that can be seen from a specific stopping point on or near a roadway, comprised of the: Foreground (the area up to one-third mile from the edge of the roadway where individual parts of a plant are distinguishable); Middleground (the area beginning one third from the edge of the roadway and extending to three miles from the roadway where individual plants are distinguishable); and Background (the area more than three miles from the roadway, where individual plants are indistinguishable but are visible as vegetative cover).

Historical Note

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Amended by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

R17-3-802. Meetings and Organization of PHSRAC

A. Chairperson.

1. At the first meeting of the fiscal year, PHSRAC shall elect a chairperson and vice chairperson. The chairperson and vice chairperson shall assume the duties of office at the close of the first meeting.
2. If the chairperson or vice chairperson resigns or vacates the office before the term expires, PHSRAC shall elect a replacement to serve the remainder of the term at the next scheduled meeting.
3. The chairperson shall preside at all meetings, appoint subcommittees of PHSRAC, and perform other duties as necessary to the office of chairperson.
4. If the chairperson is absent or incapacitated, the vice chairperson shall exercise the duties of the chairperson.

B. Meetings.

1. PHSRAC shall meet at least once each six months at a time and place designated by the chairperson.
2. The chairperson, the vice chairperson with the chairperson's approval, or any six members of PHSRAC may call a meeting as necessary to conduct PHSRAC's business.
3. PHSRAC shall notice all meetings as prescribed in A.R.S. Title 38, Article 3.1.

C. PHSRAC's decisions become effective by a majority vote of attending members if a quorum is present. A quorum consist of six or more members of PHSRAC present at a meeting convened under A.R.S. Title 38, Article 3.1.

Historical Note

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Amended by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004(Supp. 04-2).

R17-3-803. Request to Designate a Road

A. Any agency, group, or individual may request PHSRAC to recommend that the Transportation Board designate a road. An applicant agency, group, or individual shall submit a written request to the Chairman of PHSRAC, care of the Department. The request shall identify the applicant and state the road segment to be included in a proposed designated road.

B. At a meeting convened under A.R.S. Title 38, Article 3.1, PHSRAC shall conduct an initial assessment of the request based on the factors in R17-3-804(A). PHSRAC shall decide by majority vote whether to allow the applicant to submit an application and report as described in subsection (C).

C. If PHSRAC approves an initial assessment, PHSRAC shall provide the applicant with a copy of the "Application Procedures for Designation of Parkways

and Historic or Scenic Roads in Arizona.” The applicant shall submit the following:

1. A written letter of support for designation of the road by the entity having jurisdiction over the road. If the proposed designated road is a state highway, a local community group shall submit the letter of support; and

2. A report that includes the following for the proposed designated road:

- a. Recommended road segment to be designated;
- b. Area on either side of the road necessary to protect the historic, cultural, or visual resources of the proposed designated road;
- c. Adjacent land ownerships;
- d. Existing major land use along the proposed designated road;
- e. Area zoning;
- f. Still photos or other supportive material of outstanding and representative scenery, or other resources;
- g. Recommendations to protect or enhance the historic, cultural, or visual resources of the proposed designated road;
- h. Visual impact of existing outdoor advertising; and
- i. Inventory of resources as prescribed in subsection (D).

D. An inventory of resources includes the following, as applicable to the proposed designated road:

- 1. Natural resources such as geology, hydrology, climate, biota, and topography;
- 2. Visual resources, including a systematic:
 - a. Selection of appropriate viewsheds,
 - b. Classification of the proposed designated road’s scenic elements and viewsheds, and
 - c. Evaluation of the visual quality of each viewshed.
- 3. Cultural resources, including:
 - a. Architectural resources, including structures, landscaping, or other human constructions, that possess artistic merit and represent the architectural class or time period of human achievement;
 - b. Historical resources, including sites, districts, structures, artifacts, or other evidence of human activities that represent aspects or events of national, state, or local history;
 - c. Archaeological resources, including sites, artifacts, or structures that date from
 - i. Prehistoric or aboriginal periods; or
 - ii. Historic periods, or non-aboriginal activities for which only vestiges remain; and
 - d. Cultural development resources, including:
 - i. Political or governmental development,
 - ii. Social or cultural impact on civilization in the proposed area, or
 - iii. Technological or economic impact of civilization in the proposed area.

E. For a proposed designated road that is part of the Arizona state highway system, the Department shall prepare the report required in subsection (C) (2).

F. The Department shall submit the inventory of resources to the Arizona Historical Advisory Committee of the Arizona State Library, Archives, and Public Records for its evaluation of the value of any historical resource of a proposed designated road.

Historical Note

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Section repealed; new Section made by final rulemaking at 10

A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

Supp. 05-3 Page 30 September 30, 2005 **Title 17, Ch. 3 Arizona**

Administrative Code

Department of Transportation – Highways

R17-3-804. PHSRAC's Process

A. After receiving all information requested in R17-3-803(C) and (D), PHSRAC shall evaluate the extent and quality of the resources for the proposed designated road. PHSRAC shall consider the following factors in deciding to recommend designation to the Transportation Board:

1. The memorability of the visual impression from contrasting landscaping elements;
2. The integrity of the visual order in the natural and humanbuilt landscape, and the extent to which the landscape is free from visual encroachment;
3. The degree to which visual aspects of the landscape elements join to form a harmonious, composite, and visual pattern;
4. Degree of the historical or cultural contribution to the area, state, or nation;
5. Proximity and access of the proposed designated road to the historical place or area;
6. Sufficient land area for a parkway to accommodate visitor facilities; and
7. Evaluation by the Arizona Historical Advisory Committee.

B. At a meeting convened under A.R.S. Title 38, Article 3.1, PHSRAC shall discuss and vote on a recommendation for designation of a road to the Transportation Board. PHSRAC shall:

1. Approve and recommend a designation by a majority vote, or
2. Deny a request for designation.

C. If PHSRAC approves and recommends designation, PHSRAC shall submit the recommendation to the Director to present to the Transportation Board. The Transportation Board has sole authority to designate a road as a parkway, historic, or scenic road.

Historical Note

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Section repealed; new Section made by final rulemaking at 10

A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

R17-3-805. Reconsideration of PHSRAC's Decision

A. If PHSRAC denies a request to designate a proposed road at the initial assessment stage, as described in R17-3-803(B), the agency, group, or individual that requested designation may prepare and submit an application and

report under R17-3-803(C) to PHSRAC at its own cost. The agency, group, or individual shall submit the application and report within one year from the date of PHSRAC's decision denying the request.

B. If PHSRAC denies an application to designate a road, the agency, group, or individual may request that PHSRAC reconsider its decision:

1. The entity requesting reconsideration has 60 days from the date of PHSRAC's decision to present additional information to PHSRAC. Additional information includes data that emphasizes the factors PHSRAC considers in R17-3-804(A), and emphasizes the road's unique features or special qualities that could be protected or enhanced. The Department shall prepare the additional information if the road is a state highway.

2. PHSRAC shall not reconsider its decision if the entity requesting reconsideration does not submit additional information.

C. If additional information is presented, PHSRAC shall discuss and vote on the request for reconsideration at a meeting convened under A.R.S. Title 38, Article 3.1.

Historical Note

Adopted effective May 30, 1984 (Supp. 84-3). Correction to subsection (C) (Supp. 88-4). Amended effective August 3, 1994 (Supp. 94-3). Amended by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

R17-3-806. Review of Existing Designated Parkway or Historic or Scenic Road

A. Review.

1. PHSRAC shall review a designated road to compare and ensure that the present conditions and resources comply with the conditions and resources that existed at the time the road was designated in order to ensure continued designation.

2. PHSRAC shall conduct a review:

- a. At least every five years from initial designation,
- b. At the design stage of any construction or reconstruction proposed by the Department or the entity having jurisdiction of the designated road, or
- c. If the entity having jurisdiction or a local community group recommend deletion of the designated road.

B. Corridor Management Plan ("CMP").

1. The Department incorporates by reference the Federal Highways Administration's Notice of FHWA interim policy, published in the Federal Register, 60 F.R. 26759, May 18, 1995, and no later amendments or editions. The incorporated material is on file with the Department.

2. The entity having jurisdiction or any member of the public shall use the guidelines outlined in the Notice of FHWA interim policy, incorporated by reference in R17-3-806(B)(1), to prepare a CMP.

3. The entity having jurisdiction or any member of the public shall submit a CMP to PHSRAC as stated in R17-3-803(A), for PHSRAC's review.

4. At a meeting convened under A.R.S. Title 38, Article 3.1, PHSRAC shall discuss and vote on whether to recommend to the Department or the entity having jurisdiction to adopt and implement the CMP, using the guidelines outlined in the Federal Highways Administration's Notice of FHWA interim policy.

C. Deletion.

1. Based on its review conducted under subsection (A), PHSRAC shall discuss and vote on a recommendation for deletion of a designated road at a meeting convened under A.R.S. Title 38, Article 3.1.

2. Reconsideration. The entity having jurisdiction of a designated road or a local community group may request that PHSRAC reconsider its decision if PHSRAC recommends deletion of a designated road.

a. The entity requesting reconsideration has 60 days from the date of PHSRAC's decision to present additional information to PHSRAC. Additional information includes data that emphasizes the factors

PHSRAC considers in R17-3-804(A), and emphasizes the road's unique features or special qualities that could be protected or enhanced. The Department shall prepare the additional information if the road is a state highway.

b. PHSRAC shall not reconsider its decision if the entity requesting reconsideration does not submit additional information.

c. PHSRAC shall use the procedures described in R17-3-805 to reconsider its decision.

3. PHSRAC shall submit a recommendation for deletion to the Director for the Director to present to the Transportation Board.

Arizona Administrative Code Title 17, Ch. 3 Department of Transportation – Highways September 30, 2005 Page 31 Supp. 05-3

Historical Note

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Amended by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

R17-3-807. Approvals and Agreements Between Agencies for Designation

If the Transportation Board designates a road that is not a state highway, the designation becomes effective after the Department and the entity having jurisdiction complete an interagency agreement and file the agreement with the Secretary of State. The agreement shall include the following:

1. PHSRAC's resource listing and evaluation for designation as recommended to the Director for the Director's presentation to the Transportation Board,

2. Requirements or recommendations for protecting unique features and resources,

3. Provisions for Department-approved signing,

4. Provisions for an access road or subdivision access to a parkway as restricted under A.R.S. § 41-514(F),

5. Statements regarding the conditions of the designation,

6. Provisions if the Transportation Board deletes a road and cancels an agreement, or
7. Provisions that the Department, the Arizona Parks Board, or the Arizona Historical Society do not have any financial or legal responsibility for another agency or government unit by designating a highway as a parkway or historic or scenic road.

Historical Note

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Amended by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

R17-3-808. Construction and Maintenance Standards; Signing

A. Under A.R.S. § 41-516, the Department or entity having jurisdiction may allow a design exception effecting construction or maintenance in order to protect and enhance a special feature or unique resource of the designated road, based on engineering judgment and the current standards of the American Association of State Highway and Transportation Officials.

B. The Department or entity having jurisdiction shall provide signing to identify the designated road, based on the current edition of the Manual on Uniform Traffic Control Devices adopted under A.R.S. § 28-641, and the following criteria:

1. A logo associated with a sign that identifies a designated road shall not be used without PHSRAC's written permission.
2. The Department shall provide signing identifying a designated state highway depending on the level of fiscal constraint and available funding.
3. The Department shall not allow signing identifying a designated road on an interstate highway.
4. PHSRAC and the Director shall review any other signing related to identifying a designated road, such as historical markers, in order to ensure the signing conforms to Department standards and resource character of the road.
5. A sign shall not visually interfere with or distract from an adjacent traffic control device, or the historic or scenic quality of an area.
6. Signing identifying the designated road should be as close as practicable to the established termini. Within the designated road, signing shall be at least five miles apart. If the termini of the designated road are less than ten miles apart, no additional signing shall be installed within the designated road.
7. If a designated road begins or ends at a point at a junction or intersection of another road, the signing for the designated road shall be located beyond the junction and beyond any signing that is installed immediately after the junction or intersection. Signing for the designated road may be incorporated with or into advance guide signing for the other road if spacing allows.
8. If an intersecting road is a designated road, and the beginning or end is not immediately adjacent to the junction or intersection, any signing shall be located only on the designated road.
9. If the Transportation Board deletes a road, the Department or entity having jurisdiction shall remove all designation signing.

Historical Note

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Section repealed; new Section made by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).

R17-3-809. Repealed**Historical Note**

Adopted effective May 30, 1984 (Supp. 84-3). Amended effective August 3, 1994 (Supp. 94-3). Section repealed by final rulemaking at 10 A.A.R. 2073, effective July 6, 2004 (Supp. 04-2).